



Georgia Department of Revenue
Informational Bulletin 2009-07-22
Taxability of Transactions Involving the Federal Government's
Consumer Assistance to Recycle and Save Act of 2009

1) Purpose/Subject:

To provide guidance on the application of Georgia sales and use tax to transactions involving the federal government's provision of a monetary credit for vehicles traded in pursuant to the "Consumer Assistance to Recycle and Save Act of 2009" also known as the "Cash for Clunkers" Program.

2) Effective Date: July 22, 2009

3) Supersedes: All previous documents and any oral directives in conflict herewith

4) Authority: O.C.G.A. §§ 48-8-2, 48-8-30; 48-8-44; Ga. Comp. R. & Regs. r. 560-12-1-.34; 560-12-2-.09

5) Scope :

An informational bulletin is intended to provide guidance to the public and to Department personnel. It is a written statement issued to apply principles of law to a specific set of facts or a general category of taxpayers. An informational bulletin does not have the force or effect of law, and is not binding on the public. It is, however, the Department's position and is binding on agency personnel until superseded or modified by a change in statute, regulation, court decision, or advisory opinion.

6) Issue:

Whether the federal government's provision of a monetary credit for a vehicle traded in pursuant to the "Consumer Assistance to Recycle and Save Act of 2009" should be treated as a trade-in allowance and excluded from the taxable sales price of the new vehicle?

7) Discussion of the Issue:

Georgia levies and imposes a tax on the retail purchase, retail sale, rental, storage, use, or consumption of tangible personal property and on certain described services. O.C.G.A. § 48-8-30(a). Every purchaser of tangible personal property at retail in Georgia is liable for payment of tax on the purchase at a rate of 4 percent of the sales price. O.C.G.A. § 48-8-30(b)(1).

“Sales price” means the total amount valued in money, whether paid in money or otherwise, for which tangible personal property or services are sold including, but not limited to, any services that are a part of the sale and any amount for which credit is given to the purchaser by the seller without any deduction from the total amount for the cost of the property sold, the cost of materials used, labor or service costs, losses, or any other expenses of any kind. O.C.G.A. § 48-8-2(9)(A).

With respect to trade-in allowances, Georgia law provides as follows:

When used articles are taken in trade or a series of trades as a credit or partial payment on the sale of new and used articles, the tax imposed by this article shall be paid on the value of the new or used articles less the credits for the used articles.

O.C.G.A. § 48-8-44.

Georgia also has several regulations that clearly support this position. For example, Rule 560-12-1-.34 provides:

Where articles of tangible personal property are taken in trade, or a series of trades, as a credit or part payment for similar new or used articles, the tax shall be paid on the sale price of the new or used article, less the credit allowed for the trade-in.

Ga. Comp. R. & Regs. § 560-12-1-.34.

Furthermore, Rule 560-12-2-.09 provides:

The tax applies to the retail sale of automobiles, trucks, trailers, tractors, and other motor vehicles. The tax applies to the sales price without any deduction for labor, freight, delivery, manufacturer rebates, and other charges, except allowance for another motor vehicle taken in trade (without deduction for liens).

Ga. Comp. R. & Regs. § 560-12-2-.09(1)(a).

The monetary credit received as part of the "Cash for Clunkers" program is essentially a guaranteed trade-in amount for qualifying vehicles. In these situations, the dealer is clearly taking a used vehicle in trade as a credit or partial payment on the sale of a new vehicle. The fact that the dealer will later be reimbursed by the federal government in an amount equal to the amount of the credit is irrelevant for Georgia sales and use tax purposes. Therefore, the dealer should collect sales tax on the value of the new vehicle less the amount of the credit extended for the used vehicle.

FOR MORE INFORMATION

**For more information on this subject, contact the Taxpayer Services Division at 404-417-4300, from 8:00 am to 4:30 pm EST, Monday through Friday, excluding holidays.
Persons with hearing or speech impairments may call our TDD number at 404-417-4302.
For forms and other information, visit our website (www.dor.ga.gov).**
